

September 23, 2003

**PROCUREMENT MEMORANDUM 2003-06**

**INFORMATION**

MEMORANDUM FOR        Heads of Contracting Offices (HCO)

FROM:                      Michael S. Sade */signed/*  
Director for Acquisition Management and  
Procurement Executive

SUBJECT:                   MCI/WorldCom's Proposed Debarment

The purpose of this procurement memorandum is to advise you of the General Services Administration's proposed debarment of MCI/WorldCom and provide related guidance to Departmental contracting officers.

On July 31, 2003, GSA determined MCI/WorldCom (MCI) lacked the "present responsibility" to remain eligible to contract with the United States Government and issued a Notice of Proposed Debarment of WorldCom, Inc., dba MCI. A copy of the notice is available at [http://www.gsa.gov/cm\\_attachments/GSA\\_PUBLICATIONS/Notice%20of%20Proposed%20Debarment\\_R2FD3-s\\_0Z5RDZ-i34K-pR.PDF](http://www.gsa.gov/cm_attachments/GSA_PUBLICATIONS/Notice%20of%20Proposed%20Debarment_R2FD3-s_0Z5RDZ-i34K-pR.PDF) . The notice cites the determination that MCI/WorldCom lacks the internal controls and business ethics necessary to be considered "presently responsible." GSA simultaneously placed MCI/WorldCom's name on the Excluded Parties Listing System at <http://www.epls.arnet.gov> .

As stated in GSA's notice, the proposed debarment was effective July 31, 2003, and has the following consequences:

1. The company names, WorldCom, Inc., dba MCI; and MCI; and MCI WorldCom Communications, Inc., (WorldCom) will be published in the *List of Parties Excluded from Federal Procurement Non-Procurement Programs*, a GSA publication containing the names of contractors debarred, suspended, proposed for debarment, or declared ineligible by any agency of the Federal Government. Proposed debarment is effective throughout the executive branch of the Federal Government.
2. Offers will not be solicited from, contracts will not be awarded to, existing contracts will not be renewed or otherwise extended for, and subcontracts requiring Government approval will not be approved for WorldCom by any agency in the executive branch of the Federal Government, unless the head of the agency taking the contracting action or a designee states in writing the compelling reason for continued business dealings between WorldCom and the agency.

3. WorldCom may not conduct business with the Federal Government as an agent or representative or other contractors or of participants in Federal assistance programs.
4. No Government contractor may award to WorldCom a subcontract equal to or in excess of \$25,000 unless there is a compelling reason to do so and the contractor first notifies the contracting officer and further complies with provisions of FAR 9.405-2(b).
5. WorldCom's affiliation with or relationship to any organization doing business with the Government will be carefully examined to determine the impact of those ties on the responsibility of that organization to be a Government contractor or subcontractor.
6. No agency in the executive branch shall enter into, renew, or extend primary or lower-tier covered transactions in which WorldCom is either a participant or principal, unless the head of the agency grants an exception in writing.

We understand GSA granted WorldCom's request for an extension of time to present additional information and that the company intends to respond to the issues identified in GSA's Notice of Proposed Debarment. We also understand that while GSA considers WorldCom's submissions, the company will remain on the list of excluded parties.

The notice of proposed debarment indicates that GSA is aware of recent allegations concerning WorldCom's non-payment of fees to other telecom companies. If the allegations are substantiated, GSA is prepared to take additional measures against the company to protect the Government's interest.

The immediate impact to Commerce contracting officers using MCI/WorldCom is as follows:

- Contracts and subcontracts awarded before July 31, 2003 remain in effect (see FAR 9.405-1(a)).
- Civilian agency contracting officers may continue to place orders against existing contracts, including indefinite delivery contracts, (see FAR 9.405-1(b)), as well as task orders for services under the FTS 2001 contract with MCI/WorldCom. However, DOD contracting officers may not award task orders to MCI/WorldCom without agency head or designee approval.
- Contracting officers may not enter into new contracts or extend the duration of expiring contracts with MCI/WorldCom, or consent to new subcontracts with MCI/WorldCom, without agency head or designee approval. (See FAR 9.405-1(c)). This means contracting officers may not exercise an option to extend the term of a MCI/WorldCom contract, without agency head or designee approval.

For planning purposes, GSA advises that the FTS 2001 contract with MCI is set to expire on January 1, 2004, unless GSA decides to exercise a one-year option. We understand GSA's notification to exercise a one-year option must be made by November 2003.

The Commerce Acquisition Regulation at 1309.4 – Debarment, Suspension, and Ineligibility, establishes the Procurement Executive (PE) as the official responsible for debarment and suspension decisions. Therefore, when determining there are compelling reasons for continued business dealings with WorldCom in situations covered by GSA's proposed debarment, the CO shall prepare a complete rationale and recommendation request for the PE's approval. The request shall be cleared by the senior program official, the operating unit's Chief Information Officer, the Office of General Counsel (Contract Law Division), and HCO, and submitted to the PE.

Contracting officers should also be aware that MCI/WorldCom is in the midst of reorganization proceedings under Chapter 11 of the U.S. Bankruptcy Code in the United States Bankruptcy Court. The Office of General Counsel is following the case. Through the Contract Law Division, OGC can provide information to contracting officers regarding the status of the case.

Questions about this memorandum may be directed to Nancy Barrere in the Commerce Acquisition Performance, Policy, and Support Division at [Nbarrere@doc.gov](mailto:Nbarrere@doc.gov) or 202-482-5519 or to Edward Weber in OGC's Contract Law Division at [Eweber@doc.gov](mailto:Eweber@doc.gov) or 202-482-2661.

cc: O. Wolff, CFO/ASA  
T. Pyke, CIO, Commerce  
K. Hogan, Deputy CIO, Commerce  
All Other Departmental CIOs  
M. Langstein, OGC/CLD